IN THE HIGH COURT OF JUDICATURE AT BOMBAY

T and I J

Misc. Petition NO.18 of 2005

Mohamad Hanif Jamal Kadiwal .. Missing person

Johra w/o Mohammed Hanif
Jamal Kadiwal .... Petitioner

Shri M.G.Gawde for Petitioner

CORAM:S.R.SATHE,J.

DATED:2nd December 2005

P.C.:-

1. Heard the learned Advocate for the Petitioner. Perused the papers.

2. It is the case of the Petitioner that her husband Mohammed Hanif Jamal Kadwal left her residential house on 29-9-1996. Thereafter Petitioner and her children and other relatives made several efforts to trace him. Even advertisement was given in Gujrati newspaper as they being Momeddian Kachhi. In spite of various efforts Petitioner’s husband was not traced. Even Police also informed that though they made several

efforts they could not find the missing person.

3. The missing person was having LIC policy. When the Petitioner contacted LIC they asked to produce the necessary order of the Court regarding missing person. Besides this missing person was the owner of the flat bearing flat no.302 in building No.5/1 Malad Kokil Co Op Hsg Scy Ltd. situated at Sunder Nagar, S.V.Road, Malad (West), Mumbai 400 064. The officers of the Society also asked the Petitioenr to produce necessary orders regarding missing person. Hence Petitioner filed the present petition under Section 108 of Evidence Act.

4. The near relatives and legal heirs of missing person have filed their consent and admitted the contents of this petition. So, under such circumstances it is very clear that Petitioner's husband is not seen by anybody for period of more than 7 years. He has not been heard during the said period and naturally presumption of civil death has to be drawn.

5. Hence the petition is allowed.

(S.R.SATHE,J)